

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

_____	)	
FM HOLDINGS, LLC f/k/a	)	
FORWARDMARKET, LLC,	)	
	)	
Plaintiff,	)	
	)	Civ. No. 05-11400-MLW
v.	)	
	)	
BILL MAHONEY and	)	
STEPHEN GREGORIO,	)	
	)	
Defendants.	)	
_____	)	

**PLAINTIFF'S REPORT ON SETTLEMENT DISCUSSIONS  
PURSUANT TO OCTOBER 10, 2006 ENDORSEMENT**

On May 10, 2006, plaintiff made a demand upon defendants in accordance with Local Rule 16.1 (c). The defendants did not respond.

After the May 26, 2006 scheduling conference, the Court issued an order which provided, *inter alia*, that the parties confer about settlement and report to the Court by September 29, 2006 the possibilities for resolution. Defendants again declined to discuss settlement because the depositions of the principal of the plaintiff and of the defendants had not occurred. The parties reported on September 29, 2006, that they had not had any substantive discussions concerning settlement, but that they would "meet and confer to discuss settlement and/or mediation after the upcoming depositions, and . . . report to the Court on the progress, or lack thereof, by November 15, 2006." The Court endorsed that report on October 10, 2006.

Since September 29, plaintiff has taken the deposition of defendants and defendants took the deposition of plaintiff's principal. Not having heard from defendants, counsel for plaintiff

contacted counsel for defendants by e-mail and telephone in an effort to confer about settlement on November 10 and 13. Defendants' counsel, Timothy Blank, acknowledged that he owed plaintiff's counsel a response and that he would confer with a representative of the insurance carrier and report back to plaintiff's counsel. In the afternoon of November 15, Attorney Blank informed counsel for the plaintiff that he still has not received instructions from the insurance carrier and is not in a position to make any settlement offer.

Plaintiff FM Holdings, LLC  
By its attorneys,

s/Kevin S. Murphy/

Sanford F. Remz (BBO #538300)  
Kevin S. Murphy (BBO #638335)  
YURKO, SALVESEN & REMZ, P.C.  
One Washington Mall, 11th Floor  
Boston, MA 02108  
(617) 723-6900

Dated: November 15, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that I am causing a true and correct copy of the foregoing pleading to be served by ECF filing and regular mail on counsel of record for the Defendants:

Timothy C. Blank  
Michael Shin  
Matthew Lyons  
Dechert, LLP  
200 Clarendon Street, 27th Floor  
Boston, MA 02116  
(617) 728-7100

on this 15<sup>th</sup> day of November, 2006.

s/Kevin S. Murphy/

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Kevin S. Murphy